26 February 1997

Memorandum For: John Pereira
Chief, Historical Review Group

From: Barry Harrelson
JFK Project Officer

Subject: (U) CIA Employees Names in JFK Records

Background

(AIOU) In March 1996, the ARRB agreed to protect the names of all Agency staff employees that appear in JFK documents until May 1997. The agreement reflected the Board's recognition of the need to facilitate the document review, and that it would take time for the Agency to collect evidence to defend individual names. Attached are Jeremy Gunn's memo summarizing the Board's approach to the release of CIA employee names and the DO's response. Both memos assume a name-by-name approach and set categories and specific requirements for the release or protection of an individual. Also attached is an analysis of the ARRB and DO approaches.

(AIOU) I do not know how prepared the DO is, but I suspect that there is still a significant amount of work to be done prior to the Board's May meeting. I understand that many former employees have not responded to the DO's letter and that most of the responses have been negative. Even if the DO is able to complete the research on all employees protected to date, it is unlikely that they will be able to develop the type of evidence required by the Board to protect most individuals. Under the name-by-name approach, we can expect a majority of the names to be released.

Issue

(AIOU) There is considerable concern among HRG reviewers that the continued release of hundreds of Agency employees' true names has the potential to do unacceptable harm to US national security. The harm from release of a large number of names lies in the fact that it cannot be measured. This is due to the ripple effect that would occur among assets in many places and with many liaison services. It undermines the basic concept of cover for a claudestine service.

CL By: 611637
CL Reason: 1.5 (c)
DECL On: X1
DRV From: PER 9-87;COV 1.1-86

(U) To date over 500 CIA employee names, mostly DO, have been protected and are subject to review by the Board in May 1997. Most of these individuals have little or no connection to the JFK assassination story. This is far more names than had been anticipated when we agreed in March 1996 to the case-by-case approach. [FYI Note: I estimate that approximately 1800 names have been released to date in the JFK review].

(S) In addition, the decisions made by the Board at the May meeting will set a precedent for the potentially hundreds of names to come. We have reviewed only the Oswald 201 file and 12 boxes of the JFK sequestered collection. At this point it is impossible to determine the total number of employees mentioned in the JFK collection. For example in Box 48, there is a Position Control Register (155 pages) listing all employees in Far East Division including the Tokyo station.

Recommendation

(AIOU) That the Agency re-visit the name issue with the ARRB based on the following considerations:

* It should be recognized that there are two separate aspects of the public interest involved in this matter, and that it is necessary to achieve a reasonable balance between them. On the one hand, it is clear that it is now in the public interest to release as much of our JFK collection as is possible. On the other hand, it is equally clear that it is in the public interest for this Agency to maintain its essential security practices in order to be able to serve the Nation effectively in accordance with its enabling legislation.

* It is not in the public's interest for one of the fundamental principles of an intelligence agency--protecting the identity of covert employees--to continue to be eroded. While it is not always possible to show harm by the release of any one individual's name, the magnitude of the JFK release clearly has the potential to do harm to the Agency as an institution and to national security. There is no way to measure the possible effect of these releases on future employees and operations.

* Since most of the individuals involved have little or no connection with the JFK assassination, the release of their true names does not add to the story. The substitution of pseudonyms would meet the historian's need to track who is saying what, etc.

* The Agency recognizes that there are employees who are part of the JFK story (many of their names have already been released). We propose that the ARRB staff and HRG work together to establish a list of individuals who are important to the story. These names would be released unless the Agency is able to provide the required evidence of current harm.

This approach would serve both the public's and the Agency's interests. It would also allow the Agency to focus its resources on completing the review and responding to the special requests of the Board, instead of spending an inordinate amount of time and money on individuals of marginal or no interest to the JFK story.

(C) [Note: There is also the issue of State Department equities and the impact of officially acknowledging as CIA hundreds of officers who were under official State cover.]

Proposed Action

(AIOU) We have a little over two months to resolve this issue and be ready for the ARRB meeting, May 12-13. I propose that I set up a meeting with Fred and Linda this week. If they agree, then I suggest a memo to the DO and the General Counsel presenting the issues. Support from top management including a willingness to raise the issue with the acting/new DCI and possibly the White House is critical to success. I see OGC (Linda) being tasked with preparing a memo for the Board similar to the one prepared on sources.

(AIOU) The Board has meetings scheduled for 13-14 March, 2-3 April and 23-24 April. I recommend that we begin discussions with ARRB staff as soon as possible with the goal of having the memo ready no later than the 2-3 April meeting. We should also be prepared to discuss the issue directly with the Board since we are asking them to reconsider a decision in which we initially concurred.

(AIOU) It is important that the DO continue to develop evidence on the individuals who are scheduled for review in May. The worst possible scenario is not succeeding with the new proposal, and not being ready to defend those individuals who need protection.

Attachments: As stated

13-00000

John

I ask the JFK reviewers for comments on Gunn's and Wickham's memos (attached); Gary did his as a memo.

Barry

SUBJECT: Analysis of ARRB and DO Memoranda re Treatment of CIA Officer Names in JFK Collection (Prepared by Gary Breneman, 11 Feb 97)

1. **ARRB Memorandum.** The Gunn memorandum sets out the criteria required to meet the burden under several situations.

A. **For officers who are still alive,** Mr. Gunn states that the proofs required to postpone release of a name are three in number and all three must be met:

i. The officer must be living outside of the U.S.

OR,

(R)easonably be expected to travel outside of the U.S. in the foreseeable future;

AND,

ii. The officer is either working ... (presumably a current staff officer, contract employee, or independent contractor) ... or is retired under cover;

AND,

iii. The officer objects to the release of his or her true name.

COMMENTS: Mr. Gunn's criteria are a little confusing and may reach beyond the Board's authority.

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a. First, note again that the three elements are joined by an "**AND**" meaning all elements must be met to satisfy a postponement.

b. Second, the first requirement of living or traveling outside of the U.S. is not tied to "cover." Many officers who do not work under cover all of the time are, in fact, provided cover for overseas TDY's. Thus, <u>any</u> officer who might "reasonably" be expected to travel outside of the U.S. would warrant postponement of his/her true name. This would seem to include every CIA employee, contract employee and independent contractor, past and present.

c. With respect to the third element, Mr. Gunn and the Board appear to be in error. To my knowledge, they have no authority to require that an individual be consulted concerning his or her wishes to maintain cover, thus having his or her true name postponed, or to give up cover, thus having the name released. This decision does not lie in the first instance with the individual but is an institutional decision which lies solely within the purview of the Agency and the executive branch of the government. CIA as an executive agency charged with the creation, maintenance, and dissolution of cover mechanisms is the only entity competent to make such a decision. It alone knows if release of an officer's true name will compromise an existing cover mechanism which will, in turn, expose others who share or have shared the same cover. It alone knows if release of an officer's name will expose CIA sponsorship (a cover entity)

of a sensitive activity. It alone knows if release of an officer's name will violate a promise of confidentiality to a commercial cover sponsor which could cause both embarrassment and, possibly, financial hardship to the sponsor and, in turn, substantially hinder the Agency's ability to secure subsequent commercial cover sponsors.

d. Turning next to the wishes of a particular officer (either current or retired) vis a vis staying with his or her cover, these thoughts come to mind. For current employees, the decision is again not entirely theirs. If, after careful review, the Agency does not have a strong position on the employee maintaining the cover, the officer should be permitted to decide. He or she should be counseled however, that an action to remove cover could have an adverse impact on future assignments or TDYs. With respect to retirees, if, after careful review, the Agency does not object to the removal from cover, the individual should be permitted to decide. Note, that the responses to this inquiry will be mixed. As a historical note, the Agency over the years has been on an ever-swinging pendulum with respect to "cover into retirement," "cover for life," etc. There will be officers who petitioned hard unsuccessfully to have their cover removed when they retired and will gladly consent to lifting the cover. There will be those officers who do not want their cover lifted under any circumstance.

B. **Former officers, status unknown.** While the heading to this section would seem to suggest the CIA does not know the cover/non-cover status of some of its former officers, the section does not really deal with this issue. Rather, within the section, Mr. Gunn simply recognizes the fact that CIA may not be able to find all of its former officers to ask if they want to be opened up or remain under cover. The test required by Mr. Gunn to satisfy the Board and thus continue postponement until 1 June of this year is a "good faith showing that reasonable attempts" were made to locate the officer and failed.

The section contains the additional provision which advises the Board may continue a postponement beyond 1 June of this year (i.e., until 2010) if the CIA provides the board with evidence which satisfies the criteria of either category 1 or category 3. Such "additional evidence" must be provided by 1 May 1997.

The requirements or tests of this section for the Agency are not onerous but should be set-out as a series of uniform actions or check-off's taken in the attempt to locate each "current status unknown" officer. The record of these actions could then be presented to the ARRB in support of a request for continued postponement. The DO Memorandum mentions the possibility of asking the IRS or the OPM for assistance in this regard and this should probably be done.

C. **Names having effect on current intelligence interests.** The Gunn letter appears to subscribe a higher level of concern to this section and its criteria than the previous two, not recognizing the plain fact that the criteria of all three sections are inextricable. It sets out four separate criteria which, if CIA satisfies its burden; i.e, provides sufficient evidence to prove any one of them, will operate to postpone a true name until the year 2010. Note again, the criteria required are four separate ones, each separated by a comma and between numbers 3 and 4 and **"OR."** They are:

i. The officer must be currently engaged in clandestine activities; **OR,**

ii. The release of the officer's name would compromise ongoing intelligence operations or operations with current intelligence value (presumably, the latter permits a review into the officer's past activities, agent relationships, and cover positions); **OR,**

iii. The release of the officer's true name would reasonably be expected to cause significant harm to a living person (including family members); (read broadly, this provision would include, the individual, former agents, anyone who shared the same cover or cover position, i.e. a dedicated Department of State slot within an embassy); **OR,**

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iv. The release of the officer's name would cause significant harm to the national security or the foreign relations of the U.S. (a criteria which is broad enough to drive the proverbial Mack truck through).

2. In Part II, the Gunn memorandum takes back part of what it gave in the previous section. It sets up a test of "importance to the assassination story vs. evidence of harm." Essentially, it advises that the Board will weigh the CIA's evidence but, if within its view, the true name being considered for postponement is important to the assassination story, the Board will release it. This means for those few individuals who may be viewed as "important to the story," truly substantial evidence must be brought to bear. Absent such evidence, the Board will release, and the only recourse left to the Agency would be an appeal to the President.

3. **The Directorate of Operations Memorandum.** The memorandum basically describes the steps for handling employee names as contained in JFK records. Over 500 names will be subject to ARRB action in May 1997.

<u>Comments:</u>

a. For officers who retired under cover, the first step will be to contact them and ask if they want their true name released. This should be the last step of the review, not the first.

b. The resources and data bases which will be researched for each name should be clearly established and followed in a uniform manner. Deviation from a set, orderly process will open CIA determinations to criticism, objections and dismissal; i.e. release of a name that should be postponed.

c. In addition to the data bases described -- retirement records, annuity pay records, the office of security, insurance lists -- consideration might be given to the Northwest Federal Credit Union and overt data bases such as Phonedec. Like the IRS and OPM, the credit union might not be able from a legal standpoint to provide an address. However, it would probably be prepared to contact an individual and ask that he/she be in touch.

d. The universal release of the true names of overt employees raises concern about current employees. To the extent that any current employee, even an overt employee, may be sent overseas on TDY under light cover, the release of his or her true name via these JFK documents which will receive widespread review could jeopardize his/her overseas mission and possibly place his/her life in danger.

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Proposal for Dealing with Employees' Names

FROM:	EXTENSION	NO.
Fredrick C. Wickham, Jr. DO, Focal Point for ARRB 1D4107 OHB	44448	DATE 29 July 1996

TO: (Officer designation, room number, and building)	DATE RECEIVED	DATE FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
1. Chief, Office of Central Cover 6B4401 OHB			EQ	
2. Chief, Historical Review Group ~~404 Ames~~	22 Au96		JP	
3.				
4. B. Harrelson				
5.				
6. File				
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8.				
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FORM 3-62 610 USE PREVIOUS EDITIONS ☐ SECRET ☐ CONFIDENTIAL ☒ INTERNAL USE ONLY ☐ UNCLASSIFIED

29 July 1996

MEMORANDUM FOR: Chief Historical Review Group

FROM: Fredrick C. Wickham, Jr.
DO, Focal Point for ARRB

SUBJECT: Proposal for Dealing with Employees' Names

1. Cover mechanisms are an integral part of conducting clandestine operations. We are concerned about individuals that continue to be dependent on particular cover legends and on the organizations that cooperatively work with us to provide those cover legends. The following proposal is offered to streamline the process of handling names and minimize the potential damage an inappropriate release could cause.

A. Incomplete and Unidentifiable names:

a. We will release the occurrence of a name when a common last name appears by itself or in conjunction with a common first name such that it does not tend to specifically identify the individual.

b. We will release the occurrence of a name if it remains unidentified after a reasonable search is conducted.

B. Identifiable names for employees that retired overtly:

In most cases, overt employees' names will be released, but in some cases overt employees may have a portion of their employment remain under cover. Such cases will require the same review as that of an employee who remained under cover into retirement.

SUBJECT: Proposal for Dealing with Employees' Names

C. Identifiable names for employees that retired covertly:

a. We will make a reasonable attempt to locate a current address and contact the person. If the person objects to the release of his or her name for reasons associated with current life style issues, we will object to the release of the name. If the person does not have objections based upon personal circumstances we will review the name for organizational issues. (See para C. c.)

b. If reasonable efforts fail to locate the current address, but it can be determined that the individual is still receiving a pension, insurance or other benefit based upon cover legend, we will need to continue to protect the name since source of income or benefits can not be altered without prior notification to the individual. If we fail to identify a pension or other active benefit, we will review the name for organizational issues. (See para C. c.)

c. We will make a reasonable attempt to review the name to look for identifiable harm to the person's safety, family, ongoing operational activities, national security or foreign relations. Assuming that none of the previous concerns are identified, we will review the potential damage to the cover mechanism or cover provider by the specific occurrence of the name if released.

2. Because families of deceased employees could be the beneficiary of pensions or insurance provided under the employees cover legend, we must review them the same as we would the employee. We also have second and third generation officers following in the footsteps of their parents that could be negatively impacted by the revelation.

3. Our efforts to locate current addresses will include all internal record systems maintained by Office of Personnel Security, Retirement Branch and Insurance Branch. We will include a checklist reflecting completion of these searches

within the documentation when requesting continued protection of the name.

4. We considered options of contacting IRS or OPM during our attempts to locate current addressing information, but based upon the fact that these offices would be unwitting of the cover arrangement for the individual, it was determined to be an unreasonable risk to the cover of these officers.

Fredrick C. Wickham, Jr.